11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish a transition area near Necedah, WI, to accommodate a new NDB runway 36 SIAP to Necedah Airport, Necedah, WI.

The development of a new SIAP requires that the FAA establish the designated airspace to ensure that the procedure would be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts would reflect the defined area which would enable pilots to circumnavigate the area in order to comply with applicable visual flight rule requirements. The coordinates for this airspace docket are based on North American Datum 83. Transition areas are published in Section 71.181 of FAA Order 7400.7A dated November 2, 1992, and effective November 27, 1992, which is incorporated by reference in 14 CFR 71.1. The transition area listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Incorporation by reference, Transition areas.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7A, Compilation of Regulations, dated November 2, 1992, and effective November 27, 1992, is amended as follows:

Section 71.181 Designation of Transition Areas

* * * * *

AGL WI TA Necedah, WI [New]

Necedah Airport, WI
(lat. 44°02'01" N., long. 90°05'07" W.)
Necedah NDB
(lat. 44°02'02" N., long. 90°04'58" W.)

That airspace extending upward from 700 feet above the surface within a 6.3 miles radius of the Necedah Airport, and within 2.5 miles each side of the 181° bearing from the Necedah NDB extending from the 6.3 mile radius area to 7 miles south of the airport, excluding that portion which overlies the Camp Douglas, WI, Transition Area and Control Zone, during the specific dates and times the control zone is effective.

* * * * *

Issued in Des Plaines, Illinois, on February 9, 1993.

John P. Cuprisin,
Manager, Air Traffic Division.

[FR Doc. 93–4604 Filed 2–26–93; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 92–ASW–41]

Proposed Revision of Transition Area: Roswell, NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would revise the transition area located at Roswell, New Mexico. The very high frequency omnidirectional range (VOR) standard instrument approach procedure (SIAP) for the VOR–A approach, utilizing the Roswell very high frequency omnidirectional range/tactical air navigation (VORTAC), was amended in 1984. This proposal is necessary because a recent review of the procedure indicated that an adjustment to the transition area was necessary to completely contain operations within controlled airspace. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing the VOR–A SIAP.

DATES: Comments must be received on or before April 23, 1993.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Docket No. 91–ASW–41, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530.

The official docket may be examined in the office of the Assistant Chief Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX, between 9:00 a.m. and 3 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the System Management Branch, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Alvin E. DeVane, System Management Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530; telephone: (817) 624–5535.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit, with those comments, a self-addressed, stamped, postcard containing the following statement: "Comments to Airspace Docket No. 92–ASW–41." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the office of the Assistant Chief Counsel, 4400 Blue Mound Road, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, System Management Branch, Department of Transportation, Federal Aviation Administration, Forth Worth, TX 76193–0530. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the transition area located at Roswell, New Mexico. The VOR–A SIAP, utilizing the Roswell VORTAC was amended in 1984. This proposal is necessary because a recent review of the procedure indicated that an adjustment to the transition area was necessary to completely contain operations within controlled airspace.

The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing the VOR–A SIAP. The coordinates for this docket are based on North American Datum 83. Transition Areas are published in section 71.181 of FAA Order 7400.7A dated November 2, 1992, and effective November 27, 1992, which is incorporated by reference in 14 CFR 71.1. The transition area listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations that needs frequent and routine amendments to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Incorporation by reference, Transition areas.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7A, Compilation of Regulations, dated November 2, 1992, and effective November 27, 1992, is amended as follows:

Section 71.181 Designation of Transition Areas

* * * * *

ASW TX TA Roswell, NM [Revised]

Roswell Industrial Air Center, NM

(lat. 33°18′05″ N., long. 104°31′50″ W.)

Roswell VORTAC

(lat. 33°20′15″ N., long. 104°37′17″ W.)

That airspace extending upward from 700 feet above the surface within a 12.7-mile radius of Roswell Industrial Air Center and within 4 miles each side of the Roswell VORTAC 290° radial extending from the 12.7-mile radius to 23.2 miles northwest of the airport.

* * * * *

Issued in Fort Worth, TX, on February 16, 1993.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 93–4606 Filed 2–26–93; 8:45 am]

BILLING CODE 4910–13–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 200 and 240

[Release No. 34–31897; File No. S7–4–93]

RIN 3235–AF73

Reporting Requirements for Brokers or Dealers Under the Securities Exchange Act of 1934

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule amendments.

SUMMARY: The Securities and Exchange Commission ("Commission") is proposing for comment amendments to Rule 17a–5 under the Securities Exchange Act of 1934 ("Exchange Act") that would shift to designated examining authorities ("DEAs") the responsibility for extensions of time for the filing of FOCUS reports and audited annual financial reports or for approval of changes of the date as of which the audited annual financial report must be dated.

DATES: The requested written data, views, arguments and/or comments must be received on or before March 31, 1993.

ADDRESSES: Persons wishing to submit written data, views, arguments and/or comments should file three copies with Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Stop 6–9, Washington, DC 20549. All written data, views, arguments and/or comments should refer to File No. S7–4–93. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Julius R. Leiman-Carbia, Senior Counsel, Office of Capital Markets, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., DC 20549; tel.: (202) 272–2824.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 17(a)(1) of the Exchange Act provides that the Commission shall prescribe, by rule, the records to be kept and the reports to be made and disseminated by brokers and dealers.[1] Under that section of the Exchange Act, the Commission has adopted Rule 17a–5, the basic reporting rule for broker-dealers.[2]

Under the present rule, a broker-dealer, registered with the Commission pursuant to section 15 of the Exchange Act,[3] is required to file monthly and quarterly reports concerning its financial and operational status.[4] These

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[1] 15 U.S.C. 78q(a)(1).

[2] The Commission originally promulgated Rule 17a–5 in 1942. Securities Exchange Act Release No. 3338 (November 28, 1942), 7 FR 9917 (December 1, 1942). Subsequent to its adoption, Rule 17a–5 was amended several times technically and substantively.

[3] 15 U.S.C. 78o.

[4] Sub-paragraph (a)(2) of Rule 17a–5 requires registered broker-dealers to file reports concerning their financial and operational status by submitting completed parts of Form X–17A–5, 17 CFR 249.617, as follows:

(1) Broker-dealers who clear transactions or carry customer accounts must file:

(a) Part I of Form X–17A–5 ("FOCUS I") within ten business days after the end of each month, and

(b) Part II of Form X–17a–5 ("FOCUS") within 17 business days after the end of the calendar quarter reports must be filed with the Commission's principal office in Washington, DC and with the regional office of the Commission for the region in which the broker-dealer has its principal place of business.[5]

A broker-dealer is not required to file these reports with the Commission or its regional office if the Commission has approved a plan filed with the Commission by the broker-dealer's DEA, pursuant to paragraph (a)(4) of Rule 17a–5 ("17a–5(a)(4) Plan"). According to the Rule, a 17a–5(a)(4) Plan must set forth procedures enabling the DEA: (a) To maintain records containing information required by the FOCUS reports regarding each broker-dealer; and (b) to transmit to the Commission a copy of the applicable parts of the FOCUS reports. Currently, all self-regulatory organizations that are DEAs have filed and received Commission approval for such Plans. Accordingly, broker-dealers are required to file FOCUS reports with their DEAs; and DEAs are required to provide periodically copies of applicable parts of the reports to the Commission.

Pursuant to the terms of some of the 17a–5(a)(4) Plans, a broker-dealer's DEA is authorized to grant extensions of time for the filing of FOCUS reports. Other Plans have no such provisions. Consequently, the authority to grant or deny FOCUS report extension requests currently lies with either the Commission's regional office of the Division of Market Regulation, by delegated authority,[6] or, in some instances, the requesting broker-dealer's DEA.

Section 17(e)(1)(A) of the Exchange Act[7] requires every registered broker-dealer to file an audited annual financial report. Paragraph (d) of Rule 17a–5 requires every registered broker-dealer to file annually an audited report consisting of annual financial statements audited by an independent public accountant to be filed not later than 60 days after the date of the annual financial statement ("audited annual financial report").[8] Under Rule 17a–5(d)(6), these reports must be filed with the Commission's regional office for the region in which the broker-dealer has its principal office, the Commission's principal office in Washington, DC and the broker-dealer's DEA.[9]

The audited annual financial report must be dated "as of the same fixed or determinable date each year unless a change is approved by the Commission" ("'as of' date").[10] Pursuant to paragraph (1) of Rule 17a–5, the Division of Market Regulation, by delegated authority, is authorized to grant extensions of time in which to file the audited annual financial report.[11] The authority to grant or deny extension requests of 30 days or less beyond the 60 day filing period provided by Rule 17a–5(d) is delegated to the Commission's regional office.[12] The authority to grant or deny extensions of greater than 30 days rests with the Division of Market Regulation (by delegated authority).[13]

II. Description of the Proposed Amendments and Discussion

A. Changes in the Filing of Periodical Reports

Under the proposed amendments:

(i) The authority to grant or deny extensions of time for the filing of FOCUS reports would be given primarily to a broker-dealer's DEA.

(ii) DEAs would have the authority to approve changes of the "as of" dates, and

(iii) DEAs would have the primary responsibility, on a routine basis, to grant or deny broker-dealers' requests for extensions of time to file audited annual financial reports.

The proposed amendments will shift to DEAs the responsibility for extensions of time for the filing of FOCUS reports and audited annual financial reports or for approval of changes of the "as of" date. The DEAs are most familiar with the current financial and operational condition of the member firms designated to them, and are better prepared to respond to these requests. The proposed amendments, however, do not alter the Division of Market Regulation's delegated authority to grant requests for extensions of time or exemptions from any provision of Rule 17a–5, whenever it deems appropriate.[14]

B. Delegation of Authority

Section 200.30–6(d)(1) gives regional administrators the authority to grant extensions of time to file reports required under Rule 17a–5 and to grant or deny broker-dealers' requests to change the "as of" date. Paragraph (d)(1) of Rule 30–6 should be deleted because the proposed amendments give DEAs the primary responsibility over broker-dealers' requests concerning these matters.

III. Request for Comments

The Commission invites interested persons to submit written data, views, arguments and/or comments on the proposed amendments, and, in particular, the manner in which their implementation would affect broker-dealers' ability to comply with the Commission's regulatory reporting requirements.

IV. Summary of Initial Regulatory Flexibility Analysis

In accordance with 5 U.S.C. 630, the Commission has prepared an Initial Regulatory Flexibility Analysis ("IRFA") concerning the proposed amendments. The analysis notes that the objective of the proposed rule amendments is to shift some of the responsibilities of the Commission to a broker-dealer's DEA.

The proposed amendments do not alter the substantive reporting requirements of broker-dealers. Instead, routine requests for exemptions from the requirement to file monthly, quarterly and annual financial and operational reports will be directed at the broker-dealer's DEA rather than the Commission. Accordingly, the proposed amendments will not change the impact of current regulatory reporting requirements on "small business[es]" or "small organization[s]," as those terms are defined in 17 CFR 240.0–10(c), subject to Rule 17a–5.

A copy of the IRFA may be obtained by contacting Julius R. Leiman-Carbia, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, tel: (202) 272–2824.

V. Statutory Analysis

The amendments are proposed pursuant to the authority conferred on the Commission by section 17(a)(1) of the Exchange Act.

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and within 17 business days after the date selected for the annual audit of financial statements where said date is other than the end of a calendar quarter;

(2) Broker-dealers who do not clear transactions nor carry customer accounts must file Part IIA of Form X–17A–5 ("FOCUS IIA") within 17 business days after the end of the calendar quarter and within 17 business days after the date selected for the annual audit of financial statements where said date is other than the end of a calendar quarter;

[5] 17 CFR 240.17a–5(a)(3).

[6] 17 CFR 200.30–6(d)(1)(i) (giving regional administrators the authority to grant extensions of time to file reports required under Rule 17a–5); 17 CFR 200.30–3(a)(5) (granting delegated authority to the Director of the Division of Market Regulation to grant exemptions from, and extension of time within which to file reports required by Rule 17a–5).

[7] 15 U.S.C. 78q(e)(1)(A).

[8] 17 CFR 240.17a–5(d).

[9] 17 CFR 240.17a–5(d)(6).

[10] 17 CFR 240.17a–5(d)(1)(i). Pursuant to 17 CFR 200.30–6(d)(1)(ii) regional administrators have delegated authority to grant or deny broker-dealers' requests to change the "as of" date of the audited annual financial report.

[11] See 17 CFR 240.17a–5(l).

[12] 17 CFR 240.17a–5(l)(1)(i) and 200.30–6(d)(1)(i).

[13] 17 CFR 240.17a–5(l)(3) and 200.30–3(a)(5).

[14] See 17 CFR 240.17a–5(1)(3).

List of Subjects in 17 CFR Parts 200 and 240

Authority delegations (Government agencies); Brokers; Reporting and recordkeeping requirements; Securities.

For the reasons set forth in the preamble, title 17 chapter II of the Code of Federal Regulation is proposed to be amended as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

1. The authority citation for part 200 continues to read as follows:

Authority: 15 U.S.C. 77s, 78d-1, 78d-2, 78w, 79t, 77sss, 80a-37, 80b-11, unless otherwise noted.

§ 200.30-6 [Amended]

2. In § 200.30-6, paragraph (d)(1) is removed and paragraphs (d)(2) and (d)(3) are redesignated as paragraphs (d)(1) and (d)(2).

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

3. The authority citation for part 240 continues to read as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78i, 78j, 78l, 78m, 78n, 78o, 78p, 78s, 78w, 78x, 78ll(d), 79q, 79t, 80a-20, 80a-23, 80a-29, 80a-37, 80b-3, 80b-4 and 80b-11, unless otherwise noted.

4. Section 240.17a-5 is amended by adding paragraph (a)(5) to read as follows:

§ 240.17a-5 Reports to be made by certain brokers and dealers.

(a) * * *

(5) Upon written application by a broker or dealer to its designated examining authority, the designated examining authority may extend the time for filing the information required by this paragraph (a). The designated examining authority of the broker or dealer shall maintain, in the manner prescribed in § 240.17a-1, a record of each extension granted.

* * * * *

5. Section 240.17a-5 is amended by revising paragraph (d)(1)(i) to read as follows:

§ 240.17a-5 Reports to be made by certain brokers and dealers.

* * * * *

(d) *Annual Filing of Audited Financial Statements.* (1)(i) Every broker or dealer registered pursuant to section 15 of the Act shall file annually, on a calendar or fiscal year basis, a report which shall be audited by an independent public accountant. Reports pursuant to this paragraph (d) shall be as of the same fixed or determinable date each year, unless a change is approved in writing by the designated examining authority of the broker or dealer. A copy of such written approval should be sent to the regional office of the Commission for the region in which the broker or dealer has its principal place of business.

* * * * *

6. Section 240.17a-5 is amended by revising paragraph (l)(1) to read as follows:

§ 240.17a-5 Reports to be made by certain brokers and dealers.

* * * * *

(*l*) *Extensions and exemptions.* (1) A broker's or dealer's designated examining authority may extend the period under paragraph (d) of this section for filing annual audit reports. The designated examining authority of the broker or dealer shall maintain, in the manner prescribed in § 240.17a-1, a record of each extension granted.

* * * * *

7. Section 240.17a-5 is amended by revising paragraph (m) to read as follows:

§ 240.17a-5 Reports to be made by certain brokers and dealers.

* * * * *

(m) *Notification of change of fiscal year.* (1) In the event any broker or dealer finds it necessary to change its fiscal year, it must file, with the Commission's principal office in Washington, DC, the regional office of the Commission for the region in which the broker or dealer has its principal place of business and the principal office of the designated examining authority for such broker or dealer a notice of such change.

(2) Such notice shall contain a detailed explanation of the reasons for the change. Any change in the filing period for the audit report must be approved by the designated examining authority pursuant to paragraph (l) of this section.

* * * * *

By the Commission.

Dated: February 22, 1993.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-4576 Filed 2-26-93; 8:45 am]

BILLING CODE 8010-01-M

17 CFR Part 240

[Release Nos. 33-6976; 34-31904; IC-19282; File No. S7-5-93]

RIN 3235-AF85

Securities Transactions Settlement

AGENCY: Securities and Exchange Commission.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The Securities and Exchange Commission is publishing notice of its intention to adopt a new rule under the Securities Exchange Act of 1934 that would establish three business days, instead of five business days, as the standard settlement timeframe for broker-dealer transactions. The proposed rule is designed to reduce the risk to clearing corporations, their members, and public investors inherent in settling securities transactions by reducing the total number of unsettled trades at any given time. The rule also will facilitate additional risk reduction procedures by achieving closer conformity between the government securities and derivatives markets and the markets for other securities. The Commission is proposing an effective date of January 1, 1996, in order to allow market participants time to implement the necessary changes to allow three-business-day settlement in an efficient manner. The Commission requests comments on the proposed rule and, in particular, the costs associated with such a rule and whether the proposed implementation timetable should be adopted or modified.

DATES: Comments should be received on or before June 30, 1993.

ADDRESSES: Interested parties should submit three copies of comment letters to Jonathan G. Katz, Secretary, Securities and Exchange Commission ("Commission"), 450 fifth Street, NW., Mail Stop 6-1, Washington, DC 20549. Comments should refer to File No. S7-5-93. The Commission will make all comments available for public inspection and copying at its Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Sonia G. Burnett, Attorney, Office of Securities Processing Regulation, Branch of Transfer Agent Regulation, at 202/272-2855, or Richard C. Strasser, Attorney, Office of Securities Processing Regulation, Branch of Clearing Agency Regulation, at 202/272-2415, Division of Market Regulation, Commission, 450 Fifth Street, NW., Mail Stop 5-1, Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The market crash of October 1987 highlighted both the strengths and weaknesses in the U.S. clearance and settlement system ("system"). On the one hand, the system survived great stress without a material failure. On the other hand, the stress within the system showed the need for improvements. Since that time, the Commission, other federal regulators and industry organizations have spent considerable time studying clearance and settlement reform.[1] Numerous studies, culminating in the Bachmann Task Force Report, have recommended, among other things, shortening the settlement cycle in order to increase the safety and soundness of the system.[2]

Today the Commission proposes for comment Rule 15c6–1[3] under the Securities Exchange Act of 1934 ("Exchange Act")[4] that, if adopted, would establish three business days ("T+3"), instead of five business days ("T+5"), as the standard settlement timeframe for broker-dealer trades.

The Commission believes that significant risk reduction benefits can be gained from shortening the settlement cycle. The Commission, nevertheless, recognizes that broker-dealers may need to make operational and procedural changes to settle transactions in a shorter timeframe. The Commission therefore proposes a deferred effective date and invites comment on the cost of implementing such a rule and whether the proposed timetable for implementation should be adopted or modified.

I. Background

Although the U.S. clearance and settlement system[5] is one of the safest in the world, recent events have demonstrated that the system can be improved. The Market Breaks of October 1987 and October 1989 and the events surrounding the demise of Drexel Burnham Lambert Group, the holding company parent of Drexel Burnham Lambert, Inc. ("Drexel"), demonstrated that vulnerabilities exist in the clearance and settlement system.

Record volume and volatility during October 1987 proved detrimental to broker-dealers who were unable to resolve processing errors before settlement with their customers on T+5. Moreover, the steep decline in stock prices during that period, as well as the decline on October 16, 1989, left some broker-dealers vulnerable to loss from the positions of customers who were unable or unwilling to meet either margin calls or transaction settlement requirements. This in turn called into question the ability of those broker-dealers to meet their obligations to the clearing corporations. Indeed, turbulent market conditions in 1987 contributed to the demise of three clearing member firms, Metropolitan Securities, H.B. Shaine & Co., and American Investors Group. Clearing firms stand between the clearing corporation, on the one side, and market professionals, introducing firms, and public investors on the other.

Financial difficulties were not limited to clearing firms, however. During and after the week of October 19, 1987, more than 50 introducing firms failed, many as a result of the inability of their customers to meet margin calls and pay settlement obligations.[6] Further, because the markets are interwoven through common members, default at one clearing corporation could have triggered additional failures, resulting in risk to the entire system.

After the October 1987 Market Break, several groups sought to identify causes of the market decline and changes that could be made to shield market participants from the impact of sudden steep declines in the market.[7] All these studies identified clearance and settlement as an area which needed further attention.[8] As noted by Alan Greenspan, Chairman of the Federal Reserve Board, "The importance of strong clearing and settlement systems cannot be overemphasized. This area was identified by the Brady Commission[9] and others after the market break last year as a potential point of vulnerability in the U.S. financial system. The overloading of the * * * clearing systems last October induced breakdowns that dramatically increased uncertainty among investors and likely contributed to additional downward pressures on prices."[10]

At the same time, in March 1988, the Group of Thirty[11] organized a symposium in London to discuss the state of clearance and settlement in the world's principal securities markets. The symposium participants concluded that there was a need for international agreement on a uniform set of practices and standards for the clearance and settlement of securities transactions in order to improve the process. In light of this conclusion, the Group of Thirty organized a Steering Committee to work with a professional and broad-based Working Committee in order to produce a set of operational proposals for practices and standards in the area of clearance and settlement. The Working Committee was composed of clearance

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[1] See *e.g.*, Division of Market Regulation, The October 1987 Market Break (February 1988) ("Market Break Report"); Working Group on Financial Markets, Interim Report to the President of the United States (May 1988) (Appendix D) (the Working Group is chaired by the Secretary of the Treasury and its members include the Chairmen of the SEC, the Commodity Futures Trading Commission, and the Board of Governors of the Federal Reserve System); Presidential Task Force on Market Mechanisms, Report to the President of the United States (January 1988) (the So-called "Brady Report"); and General Accounting Office, Preliminary Observations on the October 1987 Crash (January 1988).

[2] Group of Thirty, Clearance and Settlement Systems in the World's Securities Markets (March 1989) ("Group of Thirty Report"); U.S. Working Committee, Group of Thirty Clearance and Settlement Project, Implementing the Group of Thirty Recommendations in the United States (November 1990); and the Bachmann Task Force on Clearance and Settlement Reform in U.S. Securities Markets, Report Submitted to the Chairman of the U.S. Securities and Exchange Commission (May 1992) ("Bachmann Task Force Report").

[3] 17 CFR 240.15c6–1.

[4] 15 U.S.C. 78s(b)(1).

[5] The term "clearance" includes the comparison of data regarding the terms of settlement of securities transactions and the allocation of securities settlement responsibilities. After trade comparison, most trades clear through a continuous net settlement system ("CNS") operated by a clearing corporation registered with the Commission under Section 17A of the Exchange Act. Under CNS, the clearing corporation nets each clearing member's purchases and sales to arrive at a daily net receive or deliver obligation for each security and a daily net settlement payment obligation. The term "settlement" includes the delivery of securities in exchange for funds, pursuant to the terms of the original transaction, and the custody of securities. See section 3(a)(23)(A) of the Exchange Act, 15 U.S.C. 78c(a)(23)(A).

[6] See Market Break Report, Chapter 10 at 20–21. Many customers, institutional and otherwise, open their accounts with an introducing broker. Introducing brokers use executing brokers (which are usually members of a clearing agency) to execute and clear customer trades. If the customer fails to meet margin calls made by the executing firm or fails to pay on T+5 the settlement amount for securities it has purchased, the introducing or executing broker must pay that debt. If the amount exceeds the introducing broker's ability to pay and it fails, the clearing member executing firm will be responsible for the customer's debt.

[7] See note 1 supra.

[8] Since 1987, considerable progress has been made toward increasing clearing corporations' capabilities to handle large volumes of trades and manage financial risk. Examples include increases in the number of cross-margining facilities sponsored by The Options Clearing Corporation and commodity clearing organizations, expansion of the depository system to include new financial products such as commercial paper, and development of extensive lines of communication between banking, securities, and commodities organizations.

[9] See Brady Report, note 1 supra.

[10] See Remarks by Alan Greenspan before the Annual Convention of the Securities Industry Association (November 30, 1988).

[11] The Group of Thirty, established in 1978, is an independent, non-partisan, non-profit organization composed of international financial leaders whose focus is on international economic and financial issues.

and settlement professionals from different countries.

In March 1989, the Group of Thirty issued a report by the Steering Committee setting forth nine recommendations ("Group of Thirty recommendations"),[12] including implementation of T+3 settlement, to modernize and improve clearance and settlement systems at a local level and to make them compatible with each other. These recommendations were:

- By 1990, trade comparison between direct market participants should occur by the day following the date of trade execution;
- By 1992, indirect market participants should be members of a trade comparison system which achieves positive affirmation of trade details;
- By 1992, each country should have an effective and fully developed central securities depository;
- By 1992, if appropriate, each country should implement a netting system;
- By 1992, a delivery versus payment system should be employed as the method for settling all securities transactions;
- Countries should adopt a same-day funds payment method for settlement of securities transactions;
- A rolling settlement system should be adopted by all markets as follows: (a) By 1990, final settlement should occur on the fifth day after the date of trade execution, (b) by 1992, final settlement should occur on the third day after the date of execution;
- Securities lending and borrowing should be encouraged as a method of expediting the settlement of securities transactions; and
- By 1992, each country should adopt the standards for securities numbering and messages developed by the International Standards Organization.

Following the release of the Group of Thirty Report, several countries initiated separate efforts to study how their clearance and settlement systems compared with the Group of Thirty recommendations. In the U.S., a Working Group was created for this purpose. The U.S. Working Group concluded that, while the U.S. was in compliance with seven of the Group of Thirty recommendations, continued consideration should be given to the implementation of the two remaining recommendations, T+3 settlement and settlement in same-day funds.[13]

[12] See Group of Thirty Report, note 2 *supra*.

[13] "Same-day funds" refers to payment in funds that are available on payment date and generally are transfered by electronic means.

Two subcommittees, the U.S. Steering Committee and a U.S. Working Committee of the Group of Thirty ("the U.S. committees") were formed to evaluate the benefits of shortening the settlement cycle and converting to the use of same-day funds. The U.S. committees urged adoption of the two recommendations and, in order to support a move to T+3 settlement, also recommended that: (1) Book-entry settlement be mandatory for transactions between financial intermediaries and between financial intermediaries and their institutional customers; and (2) all new securities issues should be made eligible for depository services.

In November 1990, the Commission held a Roundtable to discuss the recommendations of the U.S. committees. Roundtable participants generally agreed that the two recommendations should be adopted, but urged that the timetables for implementation be sufficiently flexible so that obstacles to implementation could be fully explored and practical solutions found and implemented. Roundtable participants expressed concern that broker-dealers conducting a predominantly retail business might have difficulty operating in a three-business-day settlement timeframe in the national clearance and settlement system because of the need, among other things, to obtain payment from retail clients for purchase transactions.

Subsequently, Chairman Breeden asked the U.S. Steering Committee to form a task force to evaluate independently whether and what changes to the clearance and settlement system should be pursued, and to determine a timetable for implementation of the changes.[14] An industry task force, headed by John W. Bachmann ("Bachmann Task Force" or "Task Force") took up that challenge.[15]

In May 1992, the Bachmann Task Force presented its findings and recommendations to the Commission. Among other things, the Task Force concluded that "time equals risk" [16] and that the settlement cycle for corporate and municipal securities should be compressed to T+3. The Task Force recommended that this be accomplished by July 1994.[17] On June 22, 1992, the Commission published the Task Force Report in the **Federal Register** for public comment.[18]

The Task Force recommendations generated substantial comment. The Commission received 1,000 comment letters from banks, broker-dealers, investment advisors, trade associations, clearing agencies, exchanges, transfer agents, and individual investors. Although many of these commentators expressed concern about the potential loss of access to physical certificates,[19] in large part they were supportive. Some of the commentators raised concerns about the specifics of implementation and about progress on industry initiatives that would facilitate a move to T+3 settlement. Indeed, the Commission considered these comments in formulating this proposal. Many of the issues noted by the commentators were identified by the Task Force and, as discussed in more detail below, efforts to address them are nearing completion.[20]

II. T+3 Settlement: Need for the Proposed Rule

In the U.S., the settlement cycle varies among markets. Settlement in the futures, options, and government securities markets occurs on the day after trade date ("T+1") using same-day

[14] Letter from Richard C. Breeden, Chairman, Commission, to Lewis W. Bernard, Chairman, U.S. Steering Committee, Group of Thirty, dated July 11, 1991.

[15] John W. Bachmann is the Managing Principal of Edward D. Jones & Co. of St. Louis, Missouri. In addition to Mr. Bachmann, the members of the Bachmann Task Force included: David M. Kelly, President and Chief Executive Officer, National Securities Clearing Corporation ("NSCC"); Richard G. Ketchum, Executive Vice President and Chief Operating Officer, National Association of Securities Dealers ("NASD"); John F. Lee, President, New York Clearing House; Gerard P. Lynch, Managing Director, Morgan Stanley and Company Inc.; James J. Mitchell, Senior Executive Vice President, Northern Trust Company; Richard J. Stream, Managing Director, Piper Jaffray and Hopwood and Company; and Arthur L. Thomas, Senior Vice President, Merrill Lynch and Co., Inc.

[16] See Bachmann Task Force Report for a discussion of the Task Force risk analysis.

[17] The Task Force made eight other recommendations that would facilitate settling securities transactions on T+3: revising the Automated Clearing House System; requiring an interactive institutional delivery process; settling all transactions among financial intermediaries and their institutional customers in book-entry form only and in same-day funds; depository eligibility for new issues; monitoring flipping (*i.e.*, the sale of stock back to the underwriting syndicate during the new issue stabilization period); expanding cross margining; streamlining the handling of physical certificates; and monitoring all market activity.

[18] See Securities Exchange Act Release No. 30802 (June 15, 1992), 57 FR 27812.

[19] Over 800 of the comment letters were from individual investors responding to the recommendation to streamline the handling of physical certificates. The letters indicate a belief that the Task Force recommendation to streamline the handling of physical certificates would result in the elimination of physical certificates and force investors to hold securities in street name. The Task Force did not propose eliminating physical certificates for those retail investors who choose to maintain their record of ownership in that form.

[20] The Commission will consider comments filed in response to publication of the Bachmann Task Force Report, note 2 *supra*, in connection with this proposal.

funds. Settlement of most trades in corporate and municipal securities, on the other hand, takes place on the fifth business day after the trade date ("T+5") with money payments among financial intermediaries made in the next-day funds [21] through the exchange of certified checks between clearing corporations and their participants (thus, financial intermediaries have good funds on "T+6").

Settlement securities transactions on T+5 is largely a function of market custom and industry practice.[22] There is no federal rule that mandates a specific settlement cycle for securities.[23] Self-regulatory organization ("SRO") rules, however, define "regular way" settlement as settlement on T+5.[24]

In today's market environment, the value of securities positions can change suddenly and drastically causing a market participant to default on unsettled positions. Clearing corporations function as, among other things, post-trade processing facilities and guarantors of post-trade settlements.[25] To protect against the credit risk [26] and market risk [27] presented by unsettled positions, clearing corporations obtain contributions from their members to a pool of funds designed to provide ready source of liquidity in case of a member default.[28] Any sizable loss in liquidating the open commitments of a defaulting member, however, would be assessed *pro rata* against all clearing members.[29]

The Bachman Task Force Report argues persuasively that a shorter settlement period will reduce market risk to a clearing corporation, and thus to all members of the clearing corporation and to the market as a whole. The Task Force collected data indicating that moving settlement from T+5 to T+3 reduced the risk to National Securities Clearing Corporation ("NSCC") [30] by 58% in the event of the failure of an average large member during normal market conditions. Based on this quantitative risk assessment, the Task Force concluded that reducing the time between trade execution and settlement would reduce risk in the system and that the U.S. securities markets can be made safer by shortening the settlement cycle to T+3.

In view of this analysis and for the reasons set out below, the Commission believes that T+3 settlement represents an important and feasible near-term goal. First, at any given point in time, fewer unsettled trades will be subject to credit and market risk, and there will be less time between trade execution and settlement for the value of those trades to deteriorate.[31] Second, the proposed rule will reduce the liquidity risk among the derivative and cash markets and reduce financing costs by allowing investors that participate in both markets to obtain the proceeds of securities transactions sooner. Finally, a shorter settlement timeframe could encourage greater efficiency in clearing agency and broker-dealer operations.

III. Description of Proposed Rule 15c6–1

Proposed Rule 15c6–1 would provide that, unless otherwise expressly agreed by the parties at the time of the transaction, a broker or dealer is prohibited from entering into a contract for the purchase or sale of a security (other than an exempted security, government security,[32] municipal security, commercial paper, bankers' acceptances, or commercial bills) [33] that

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[21] The term "next-day funds" refers to payment by means of certified checks passing between the clearing corporation and its members.

[22] Indeed, prior to 1968, equity transactions in the U.S. were settled on the fourth day after the trade date ("T+4"), without causing undue harm to retail customers. Remarks of Commissioner Mary L. Schapiro before the Securities Industry Association Regional Conference (March 20, 1991).

[23] Regulation T imposes, among other things, initial margin requirements and payment rules on securities transactions. Specifically, Regulation T requires a margin call to be satisfied within seven business days after the margin deficiency was created or increased, and requires a broker or dealer to obtain full cash payment for customer purchases within seven business days of the date of the transaction. Regulation T is issued by the Board of Governors of the Federal Reserve System pursuant to the Exchange Act and its principal purpose is to regulate extensions of credit by and to brokers and dealers. See 15 U.S.C. 78a *et seq.*, Part 220. In addition, Section 22(e) of the Investment Company Act of 1940 provides that no registered investment company shall suspend the right of redemption, or postpone the date of payment or satisfaction upon redemption of any redeemable security for more than seven days after tender of the security to the company, except under specified circumstances.

[24] See e.g., National Association of Securities Dealers, Inc. Uniform Practice Code ¶ 3512, § 12 and New York Stock Exchange Rule 64. If Rule 15c6–1 is adopted, SROs will conform their rules to the timeframe established in Rule 15c6–1.

[25] Upon reporting matched trade information to its members, the clearing corporation becomes the counterparty to every trade and guarantees payment and delivery. See Securities Exchange Act Release No. 20221 (September 23, 1983), 48 FR 45167 ("Full Registration Order").

[26] "Credit risk" is the risk that the credit quality of one party to a transaction will deteriorate to the extent that it is unable to fulfill its obligations on settlement date. See Securities Exchange Act Release No. 30986 (July 31, 1992), 57 FR 35856.

[27] "Market risk" is the risk that the value of securities bought or sold will change between trade execution and settlement so that the purchase or sale will result in a financial loss.

[28] See Securities Exchange Act Release Nos. 16900 (June 17, 1980), 45 FR 4192 (announcing the Division of Market Regulation's standards for the registration of clearing agencies); 20221 (September 23, 1983), 48 FR 45167 ("Full Registration Order"); and 30879 (July 1, 1992), 57 FR 30279 (order approving modifications to the CNS portions of the National Securities Clearing Corporation ("NSCC"), Midwest Clearing Corporation, and Securities Clearing Corporation of Philadelphia clearing fund formulas).

[29] See, e.g., NSCC Rule 4. See also, Market Break Report, Chapter 10.

[30] NSCC is one of the largest U.S. clearing corporations and is registered as a clearing agency under Section 17A of the Act. NSCC has 350 netting members. As of April 30, 1992, total required deposits to NSCC's clearing fund were $368 million. Because members do not always withdraw excess funds, NSCC had on deposit $502 million.

[31] As noted by Commissioner Mary L. Schapiro, "A shorter settlement time period will reduce the number of outstanding trades, thereby reducing the counterparty risk and market exposure associated with unsettled securities transactions." See Remarks of Mary L. Schapiro to The Group of Thirty U.S. Steering Committee (March 1, 1990); See also Remarks of Mary L. Schapiro before the Securities Industry Association's Annual Operations Conference (May 17, 1990).

[32] The Commission notes that issuers (or guarantors) of mortgage-backed securities include government agencies or government sponsored enterprises ("GSEs") such as the Government National Mortgage Association, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation, as well as private entities. Mortgage-backed securities include pass-through certificates, representing an undivided interest in a pool of mortgages, and collateralized mortgage obligations ("CMOs"), representing an interest in part of the cash flow generated by a pool of mortgages or collection of pass-through certificates.

Mortgage-backed securities issued or guaranteed by U.S. government agencies or GSEs generally fall within the definition of government security in Section 3(a)(42) of the Exchange Act and would be treated as such under proposed Rule 15c6–1. Transactions in mortgage-backed securities issued by others (e.g., CMOs) would fall within the scope of proposed Rule 15c6–1. Accordingly, the Commission invites comment on whether inclusion in a T+3 settlement timeframe would create difficulties for issuers or investors in the mortgage-backed securities market. The Commission also invites commentators to address whether additional safeguards related to clearance and settlement of mortgage-backed securities, particularly mortgage-backed securities that qualify as government securities, would be appropriate or desirable to address concerns identified during the 1989 demise of Drexel. See Testimony of Richard C. Breeden, Chairman, U.S. Securities and Exchange Commission, before the Committee on Banking, Housing, and Urban Affairs, United States Senate, Concerning the Bankruptcy of Drexel Burnham Lambert Group, Inc. (March 2, 1990). (Delivery and payment practices for mortgage-backed securities transactions led to gridlock during the demise of a holding company of a registered broker-dealer.)

[33] As noted above, because exchange-traded options routinely settlement on T+1, transactions in such securities should be essentially unchanged. Transactions in corporate debt and equity, as well as limited partnership interests and securities issued by investment companies, would be covered by the rule. The Commission invites comment on whether the scope of the rule is appropriate and whether any particular characteristics of different types of securities (e.g., mutual fund shares and limited partnership interests) will create difficulties for broker-dealers and investors if included in or excluded from the rule. For example, the Commission notes that mutual funds often permit investors to purchase shares by telephone. In that context, it may be necessary for mutual funds and broker-dealers to implement operational changes to confirm the sale to the investor, to receive the proceeds and settle the transaction, all within T+3.

provides for payment of funds and delivery of securities later than the third business day after the date of the contract. The proposed rule would allow a broker or dealer to agree that settlement will take place in more or less than three business days. The agreement, however, must be express and reached at the time of the transaction.[34]

Most broker-dealers do not specify all of the terms of a trade before execution, but rely on industry custom and SRO rules for those terms. The Commission does not intend to change industry custom to require broker-dealers to specify contract terms. Accordingly, if adopted, Rule 15c6–1 is designed to establish T+3 as a new "default" contract term.[35]

Failure to meet contractual obligations to deliver by T+3 would result in a failure to settle at the clearing corporation. Open trades that fail to settle on settlement date typically are marked-to-the-market on a daily basis and carried forward to net against other open positions. Failure to settle a payment obligation to the clearing corporation generally could result in the suspension of the clearing member and the liquidation of all the clearing member's open positions.

The Commission notes that the proposed rule should not affect the ability of individual investors to obtain a physical certificate. Individual investors who desire to maintain record ownership in certificated form still will be able to do so.

Rule 15c6–1 would not apply to municipal securities. Differences between the corporate and municipal securities markets may justify a different timetable for including municipal securities within a T+3 settlement cycle.[36] Nevertheless, the Commission remains interested in how to achieve the safety and efficiency benefits of T+3 settlement for municipal securities. Accordingly, the Commission seeks public comment on the most appropriate way and a reasonable timeframe for bringing municipal securities within the scope of the rule.

IV. The Proposed Timetable for Commission Action

The Commission recognizes that certain building blocks must be in place prior to compressing the settlement cycle.[37] Many of those building blocks, as discussed in more detail below, currently are being addressed by the SROs. In addition, the Commission recognizes that some brokers and dealers may need to make operational and procedural changes to comply with a three-day settlement period. In view of the need for more work at the SRO level and the Commission's desire to minimize the potential cost of complying with the proposed rule, the Commission is proposing an extended transition period to allow affected parties to implement necessary changes gradually.

Since 1987, the SROs have made significant progress on recommendations critical to achieving T+3 settlement. Specifically, the Depository Trust Company ("DTC") [38] is designing a system to convert from batch to interactive processing for the Institutional Delivery System.[39] In the current batch processing environment, participants receive the reports on T+1 with the goal of receiving affirmation on T+2. To move to T+3 settlement, the affirmation process must be completed on T+1. This can be accomplished through an interactive system whereby information is processed on receipt with reports distributed on request. DTC expects to implement the system on a voluntary basis during the third quarter of 1993.

Additionally, under the auspices of the Legal and Regulatory Subgroup ("Subgroup") of the U.S. Working Committee of the Group of Thirty, the SROs have drafted a uniform rule that would require book-entry settlement among financial intermediaries. The SROs are in the process of adopting the rule and expect to submit rule changes to the Commission for consideration in the first quarter of 1993.

The Subgroup also has considered the need for a uniform SRO rule requiring depository eligibility for all new issues and, in connection with this, requested the Division of Corporation Finance to consider recommending that the Commission promulgate a new disclosure requirement under the 1933 Act for initial public offerings ("IPOs").[40] In brief, the Subgroup has urged that the Commission require disclosure of whether the securities being offered in an IPO are depository-

[34] Thus, the proposed rule would permit broker-dealers to enter into trades, such as seller's option trades, that typically settle as many as sixty days after execution as specified by the parties to the trade at execution. It is not intended to permit broker-dealers to specify before execution of specific trades that a group of trades will be settled in a timeframe different from Rule 15c6–1.

[35] See note 24 supra and accompanying text.

[36] The Commission recognizes that to date moving municipal securities to a T+3 settlement timeframe has not gained the same consensus as shortening the settlement cycle for publicly-traded corporate securities. The Municipal Securities Rulemaking Board ("MSRB") has noted a number of differences between the corporate and municipal securities markets that may make a move to T+3 settlement problematic. For example, while corporate issues number in the thousands, there are over a million municipal securities "maturities," each of which is a separate security for purposes of trading and clearance and settlement. Another difference involves issuers. Approximately 80,000 entities issue municipal securities. Municipal securities are not subject to provisions of the Securities Act of 1933 ("1933 Act") and are exempted from many provisions of the Exchange Act. The municipal securities industry also has not yet reached parity with the corporate securities industry with regard to the use of automated clearance systems. Automated clearance systems for municipal securities transactions depend on a nine-digit CUSIP number. "CUSIP" is an acronym for the Committee on Uniform Securities Identification Procedures. Although most outstanding municipal securities maturities have assigned CUSIP numbers, there probably are several thousand outstanding maturities that do not. Finally, trade data for municipal securities transactions is not captured on a central electronic trade execution or trade reporting system, making acceleration of the comparison cycle for municipal securities particularly difficult. The initial comparison rate for municipal securities inter-dealer trades, which require submission to NSCC on T+1, is 76% for regular-way trades and only about 45% for non-syndicate, when-issued trades. Letter from Hal Johnson, Deputy General Counsel, MSRB, to Dennis M. Earle, Executive Director, U.S. Working Committee, Group of Thirty Clearance and Settlement Project (March 18, 1991).

[37] In recognition of the importance of broker-dealer settlement practices to the clearance and settlement process, the Securities Acts Amendments of 1975 ("1975 Amendments") provided for federal regulation of the time and method by which broker-dealers settle securities transactions. In adopting the 1975 Amendments, Congress directed the Commission to act in the national interest to achieve safety and efficiency in clearance and settlement. Section 17A of the Exchange Act directs the Commission to facilitate the establishment of a national system for the prompt and accurate clearance and settlement of transactions in securities (other than exempt securities). See 15 U.S.C. 78o, 78q–1, and 78w. That directive was revised by the Market Reform Act of 1990 to reflect the interdependence of options, futures, and equity markets that trade products involving securities or stock indexes. As noted above, recent events underscore that safety and efficiency necessitate changes in industry practice and the Commission has an obligation to lead and direct those changes. Nevertheless, the Commission recognizes that changes in industry practice and custom such as earlier settlement timeframes must involve marketplaces, marketplace regulators, and participants in those markets acting cooperatively.

[38] DTC is the largest U.S. securities depository and is registered with the Commission as a clearing agency under Section 17A of the Act. DTC is a New York State limited purpose trust company and member of the Federal Reserve System. DTC has over 500 participants including broker-dealers and banks. In 1992, DTC held on deposit corporate equity and debt securities, municipal securities, and commercial paper valued at over $5.5 trillion.

[39] In the Institutional Delivery System, brokers notify the depository of trades made by an investment manager on behalf of an institutional client. The investment manager and the client's custodian banks are notified of the trade and asked to affirm that the information is correct. Trades affirmed by T+3 settle automatically by book-entry at the depository on T+5.

[40] Letter from Richard B. Smith and Robert J. Woldow, Co-chairmen, Legal and Regulatory Subgroup, U.S. Working Committee for the Group of Thirty, to Mary E.T. Beach, Senior Associate Director, Division of Corporation Finance, dated December 17, 1992.

eligible and if not, why not. The Subgroup also has suggested that the registration statement include, as an exhibit, a letter from a securities depository registered with the Commission as a clearing agency confirming that the securities to be offered are, or will be (by the time of the public sale or following completion of an underwritten distribution), eligible for deposit with that clearing agency.

Finally, NSCC and DTC, in consultation with Commission staff, have designed a same-day funds system which has been presented to their participants for comment. DTC has assembled a task force under the auspices of the U.S. Working Committee to examine issues that were identified in the comment process, such as how and when dividends and interest will be paid in a same-day funds system (*e.g.*, paid in same-day funds on the date of receipt or in next-day funds on payable date). The Commission recognizes the importance of these initiatives in achieving a shorter settlement cycle and expects to work diligently with the SROs to complete these objectives over the next three years.

The Commission realizes that the proposed rule could entail costs for investors, broker-dealers, banks and other market participants. Assuming the goal of earlier settlement is appropriate, however, the proposed schedule for implementation will allow broker-dealers a three-year period to make the necessary transitional changes. The Commission believes the substantial lead time will allow market participants to make the necessary changes in the most efficient way.

The Commission believes the benefits to be gained from implementing the proposed rule are important to the broker-dealer community and for the protection of investors. The Commission believes, therefore, that the cost impact for broker-dealers resulting from the shorter settlement timeframe will be significantly offset by the benefits to the national clearance and settlement system.

V. Solicitation of Comments

The Commission believes that adoption of this rule would reduce substantially many of the risks that exist within the current clearance and settlement system. Risk to the clearance and settlement system will be reduced because there will be fewer unsettled trades in the system at any given point in time.

The Commission invites commentators to address the merits of the proposed rule. Specifically, the Commission invites comment on the specific costs and benefits of the proposed rule. Interested persons may comment on broker-dealer costs to develop and employ procedures to comply with the proposed rule. Interested persons may also comment on any risk reduction benefits and costs savings that may result from the proposed rule.

Interested persons are invited to comment on the desirability of applying the shorter settlement cycle to limited partnership interests, mutual funds, or municipal securities. The Commission invites comment on whether the scope of the rule is appropriate and whether any particular characteristics of securities affected by the rule will create difficulties for broker-dealers and investors if included in or excluded from the rule. In addition, interested persons are invited to comment on whether the proposed implementation date of January 1, 1996 is sufficient for broker-dealers to make the necessary operational and procedural changes in an effective manner, or whether an implementation date of January 1, 1995 or July 5, 1995 would be equally sufficient.

The Commission also solicits comment on the desirability of adopting a disclosure requirement under the 1933 Act concerning depository eligibility of IPOs. Specifically, commentators should address whether such information would be material to investors in initial public offerings.

In addition to the specific requests for comment set forth above, the Commission requests comment on whether the proposed rule, if adopted, would have an adverse effect on competition or would impose a burden on competition that is neither necessary nor appropriate in furthering the purposes of the Exchange Act. Comments on this inquiry will be considered by the Commission in complying with its responsibilities under section 23(a)(2) of the Exchange Act.

VI. Initial Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis ("IRFA") in accordance with 5 U.S.C. 603 regarding proposed Rule 15c6–1. The IRFA notes the potential costs of operational and procedural changes that may be necessary to comply with the proposed rule. In addition, the IRFA notes the importance of the risk reduction that will result from a shorter settlement cycle. The Commission believes that the benefits of proposed Rule 15c6–1 would outweigh the costs incurred by broker-dealers in complying with the rule.

A copy of the IRFA may be obtained by contacting Richard C. Strasser, Attorney, Branch of Clearing Agency Regulation, Office of Securities Processing Regulation, Division of Market Regulation, Commission, 450 Fifth Street, NW., Mail Stop 5–1, Washington, DC 20549.

List of Subjects in 17 CFR Part 240

Registration and regulation of brokers and dealers.

Text of the Proposed Amendment

In accordance with the foregoing, part 240 of chapter II of title 17 of the Code of Federal Regulations is proposed to be amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for part 240 continues to read as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78i, 78j, 78l, 78m, 78n, 78o, 78p, 78s, 78w, 78x, 78ll(d), 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4, and 80b–11, unless otherwise noted.

2. By adding § 240.15c6–1 to read as follows:

§ 240.15c6–1 Settlement cycle.

A broker or dealer shall not effect or enter into a contract for the purchase or sale of a security (other than an exempted security, government security, municipal security, commercial paper, bankers' acceptances, or commercial bills) that provides for payment of funds and delivery of securities later than the third business day after the date of the contract unless otherwise expressly agreed to by the parties at the time of the transaction.

By the Commission.

Dated: February 23, 1993.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–4577 Filed 2–26–93; 8:45 am]

BILLING CODE 8010–01–M

RAILROAD RETIREMENT BOARD

20 CFR Parts 209, 211 and 345

RIN 3220–AA91

Railroad Employers Reports and Responsibilities; Creditable Railroad Compensation; Employers' Contributions and Contribution Reports

AGENCY: Railroad Retirement Board.

ACTION: Proposed rule.

SUMMARY: The Railroad Retirement Board (Board) proposes to amend its

regulations to modify the method of reporting compensation under the Railroad Retirement Act (RRA) in order to conform such reporting to the reporting required for employment tax treatment of such compensation. These amendments are proposed in order to ease the reporting requirements for employers covered under the RRA.

DATES: Comments should be submitted on or before March 31, 1993.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611. (312) 751–4920, (FTS 386–4920).

FOR FURTHER INFORMATION CONTACT: Thomas W. Sadler, Assistant General Counsel, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611. (312) 751–4513, (FTS 386–4513), TDD (312) 751–4701, TDD (FTS 386–4701).

SUPPLEMENTARY INFORMATION: Section 209.6 of the Board's regulations (20 CFR 209.6) requires employers to file annual reports of compensation paid to their employees. In preparing these reports the Board has required employers to report required compensation with respect to the year in which it was earned even through paid in a later year, the so-called "earned basis." Thus, for example, compensation attributable to services performed in December but paid in the following January is required to be reported in the report covering the calendar year in which the services were performed, not the year in which the compensation was paid. The only exception made to this rule is found at 20 CFR 211.11 which permits retroactive wage increases to be reported in the year paid subject to an election by the employee to have them reported, by way of an adjustment, in the year in which they were earned.

Prior to 1985 this earned basis of reporting was in accord with the employment tax treatment of compensation. Thus, for purposes of the Railroad Retirement Tax Act (RRTA), compensation earned in December but paid in January was deemed paid in December. 26 CFR 31.3231(e)–1(d)(3). However, for calendar years after 1984 the RRTA requires that compensation be reported on the return covering the year in which it was paid regardless of when it was earned, the so-called "paid basis." See generally §§ 221, 222, 223, 225 and 227 of Public Law 98–76 (97 Stat. 411 (1983)).

This difference in reporting requirements between the RRA and RRTA has caused considerable confusion among employers and employees covered under those statutes. Furthermore, over an employee's career whether compensation is credited on an earned or paid basis has virtually no effect on the amount of an annuity which may become payable under the RRA.

Consequently, the Board proposes to add a new § 209.15 to its regulations which would permit employers to file their reports required under § 209.6 to reflect compensation on a paid basis, subject to the proviso that an employee, within 4 years after the report, may elect to have the compensation reported by way of adjustment under § 209.7 in the year in which it was earned. Thus, the Board is proposing to extend the treatment accorded retroactive wage increases to all payments of compensation except pay for time lost, which is accorded special treatment as set forth in § 209.7(c) of the Board's regulations. In this regard it should be noted that reporting on a paid basis is not mandatory. Thus, where an employer files a report on an earned basis, an employee may *not* require that employer to make an adjustment to a paid basis. In addition, it should be noted that the proposed § 209.15 does not change the definition of a reportable month of service as defined in § 210.3 of Title 20. (Proposed § 209.15 also contains cross references to sections dealing with separation payments, vacation and miscellaneous pay, which contains special reporting requirements relating to these types of payments.)

In addition, the Board proposes to make certain amendments to part 211 of its regulations to conform to the change in reporting in proposed § 209.15. For example, § 211.4 (vacation pay) is proposed to be revised since vacation pay will be reported in accordance with proposed § 209.15. Similar revisions are proposed to be made to § 211.8 (displacement allowance), § 211.9 (dismissal allowance), and § 211.10 (separation allowance).

Section 211.11 (retroactive wage increase) is proposed to be removed since it will no longer be necessary when proposed § 209.15 becomes effective. This section is proposed to be replaced with a new section which explains the operation of section 1(h)(8) of the RRA (45 U.S.C. 231.I8(h)(8)). This section provides that any payment made to an employee by an employer which is subject to railroad retirement taxes shall be considered compensation for purposes of tier I component of the RRA annuity (the component based on the Social Security Act benefit formula), notwithstanding the fact that such payment may be excluded from compensation by another provision of the RRA. This section is important particularly with respect to sick pay, which is excluded from compensation by section 1(h)(6)(v) of the RRA, but is subject to employment taxes under the Railroad Retirement Tax Act (RRTA), and to certain post-employment payments, such as severance pay. Because such payments are subject to employment taxes, section 1(h)(8) requires their inclusion in the definition of compensation for purposes of the computation of the tier I Component. Such payments will be reported in accordance with revised § 209.13.

Sections 211.13 and 211.14 are proposed to be redesignated as §§ 211.14 and 211.15 and a new § 211.13 is proposed to be added which provides that payments made in the year after an employee's death to the employee's survivors or estate are not compensation. These payments have not been subject to employment taxes and therefore should not be considered compensation.

Conforming amendments are proposed for § 211.2 (Definition of compensation). Redesignated section 211.14 (Maximum creditable compensation) is proposed to be amended to provide for the annual publication of the maximum creditable compensation under the RRA. Finally, § 345.4 is proposed to be amended to make it clear that the reporting requirements required under the RRA are also applicable to the Railroad Unemployment Insurance Act (RUIA).

The Board has determined that this is not a major rule under Executive Order 12291. Therefore, no regulatory analysis is required. There are no new information collections imposed by these amendments.

For the reasons set out in the preamble, 20 CFR parts 209, 211 and 345 of the Board's regulations are proposed to be amended as follows:

List of Subjects in Parts 209, 211 and 345

Railroad employees, Railroad retirement, Railroad Unemployment Insurance, Railroads.

PART 209—RAILROAD EMPLOYERS REPORTS AND RESPONSIBILITIES

1. The authority citation for part 209 continues to read as follows

Authority: 45 U.S.C. 231f.

2. Section 209.13 is revised to read as follows:

§ 209.13 Miscellaneous pay reports.

(a) Employers, insurance carriers or other parties paying miscellaneous pay, as defined in § 211.11 of this chapter, shall furnish the Board an annual report of such pay before the last day of February of the calendar year following the year in which the payment was made.

(b) Miscellaneous pay reports are to be filed in accordance with instructions issued by the Director of Research and Employment Accounts and are to be mailed directly to the Director. The reports may be made on magnetic tape or the form described in § 200.2 of this chapter.

3. Section 209.15 is added to read as follows:

§ 209.15 Compensation reportable when paid.

(a) *General.* In preparing a report required under this part, an employer may report compensation in the report required for the year in which the compensation was paid even though such compensation was earned by the employee in a previous year. If compensation is reported with respect to the year in which it was paid, it shall be credited by the Board to the employee in such year unless within the four year period provided in § 211.15 of this chapter the employee requests that such compensation be credited to the year in which it was earned. If the employee makes such a request, and the Director of Research and Employment Accounts determines that the compensation should be credited to the year in which it was earned, the reporting employer must file an adjustment report as required by § 209.7 of this part which reports such compensation in the year in which it was earned. The employee may revoke his or her request anytime prior to the filing of the adjustment report. Upon the Board's receipt of the adjustment report, the request becomes irrevocable.

(b) *Pay for time lost.* Compensation which is pay for time lost, as provided in § 211.3 of this chapter, shall be reported with respect to the period in which the time and compensation were lost. For example, if an employee is off work because of an on-the-job injury for a period of months in a given year and in a later year receives a payment from his or her employer to compensate for wages lost during the period of absence, the employer must, by way of adjustment provided for in § 209.7 of this part, report the compensation with respect to the year in which the time and compensation were lost.

(c) *Separation allowance or severance pay.* A separation allowance or severance payment shall be reported in accordance with § 209.14 of this part.

(d) *Miscellaneous pay.* Miscellaneous pay shall be reported in the year in which it was paid in accordance with instructions provided for in § 209.13 of this part.

(e) *Vacation pay.* Vacation pay may be reported in accordance with this section except that any payments made in the year following the year in which the employee resigns or is discharged shall be reported by way of adjustment under § 209.7 of this part as paid in the year of resignation or discharge.

PART 211—CREDITABLE RAILROAD COMPENSATION

4. The authority for part 211 continues to read as follows:

Authority: 45 U.S.C. 231f.

5. Section 211.2 is amended by revising (b)(9) and adding (b)(13) to read as follows:

§ 211.2 Definition of compensation.

* * * * *

(b) * * *

(9) Miscellaneous pay as provided for § 211.11 of this part:

* * * * *

(13) Payments made by an employer with respect to a deceased employee except as provided for in § 211.13 of this part.

* * * * *

6. Section 211.4 is revised to read as follows:

§ 211.4 Vacation pay.

Payments made to an employee with respect to vacation or holidays shall be considered creditable compensation whether or not the employee takes the vacation or holiday.

7. Section 211.8 is revised to read as follows:

§ 211.8 Displacement allowance.

An allowance paid to an employee because he has been displaced to a lower paying position is creditable compensation.

§ 211.9 [Amended]

8. Section 211.9 is amended by removing the last sentence.

9. Section 211.10 is revised to read as follows:

§ 211.10 Separation allowance or severance pay.

Separation or severance payments are creditable compensation except that no part of such payment shall be considered creditable compensation to any period after the employee has severed his or her employer-employee relationship except as provided for in § 211.11 of this part.

10. Section 211.11 is revised to read as follows:

§ 211.11 Miscellaneous pay.

Any payment made to an employee by an employer which is excluded from compensation under the Railroad Retirement Act, but which is subject to taxes under the Railroad Retirement Tax Act, shall be considered compensation for purposes of this part but only for the limited purpose of computing the portion of the annuity computed under sections 3(a), 4(a), or 4(f) of the Railroad Retirement Act (commonly called the tier I component).

11. Sections 211.13 and 211.14 are redesignated §§ 211.14 and 211.15 and a new 211.13 is added as follows:

§ 211.13 Payments made after death.

Payments made by an employer with respect to a deceased employee but paid in the year after the employee's death to the employee's survivors or estate are not creditable compensation.

12. Newly redesignated § 211.14, is revised to read as follows:

§ 211.14 Maximum creditable compensation.

Maximum creditable compensation for calendar years after 1984 is the maximum annual taxable wage base defined in section 3231(e)(2)(b) of the Internal Revenue Code of 1986. In November of each calendar year the Director of Research and Employment Accounts shall notify each employer of the amount of maximum creditable compensation applicable to the following calendar year.

PART 345—EMPLOYERS' CONTRIBUTIONS AND CONTRIBUTION REPORTS

13. The authority citation for part 345 is revised to read as follows:

Authority: 45 U.S.C. 362(1).

14. Section 345.4 is revised to read as follows:

§ 345.4 Employers' reports of compensation of employees.

The provisions of part 209 of this chapter shall be applicable to the reporting of compensation under the Railroad Unemployment Insurance Act to the same extent and in the same manner as they are applicable to the reporting of compensation under the Railroad Retirement Act.

Dated: February 19, 1993.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

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